

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)

1998 Biennial Regulatory Review -- Review of)
the Commission's Broadcast Ownership Rules)
and Other Rules Adopted Pursuant to Section)
202 of the Telecommunications Act of 1996)

MM Docket No. 98-35

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To: The Commission

**JOINT COMMENTS OF GREATER MEDIA, INC.
AND PRESS COMMUNICATIONS LLC**

Greater Media, Inc. ("Greater Media") and Press Communications LLC ("Press") jointly submit these comments concerning certain aspects of the Commission's broadcast ownership rules relating to radio ownership and cross-ownership of radio and television stations:¹

1. Greater Media, Inc. has been a radio broadcaster for 39 years, operating AM and FM stations in communities large and small across the country. Greater Media's subsidiaries are currently the licensees of radio stations in the Boston, Massachusetts; Philadelphia, Pennsylvania; Detroit, Michigan; and New Brunswick, New Jersey markets. Press is the licensee of a TV station in Clermont, Florida and several radio stations in New Jersey.

2. Greater Media and Press have participated regularly in Commission proceedings relating to broadcast station ownership rules and policies. They have, in recent years, expressed substantial reservations concerning relaxation of local multiple ownership rules.

¹ Greater Media and Press are also filing today separate joint comments focusing primarily on issues relating to television ownership.

Greater Media and Press have been concerned that too substantial a relaxation of ownership caps will result in a market place in which only the largest companies, with ready access to enormous amounts of relatively cheap capital, would survive. In response to the very substantial liberalization of the local ownership rules mandated by Congress and implemented by the Commission, we have seen an accelerating trend of consolidation. Bowing reluctantly to changes to the duopoly rules, Greater Media has been consolidating and expanding its radio ownership presence in selected markets in order to compete vigorously in the new order. But Greater Media and Press have grave reservations about further abandonment of structural regulation of the industry.

3. The Commission has with this Notice of Inquiry ("NOI") started the process of reviewing all of the broadcast ownership rules not already under review to see if any should be repealed or modified in view of the effects of economic competition in the regulated industries. Paragraphs 18 and 19 of the NOI report on radio industry consolidation during the first 21 months under the new rules. There has been a station trading frenzy during that period resulting in 600 station owners leaving the business. The consolidation has, not surprisingly, been most rapid in major markets, where the top few owners control an increasingly greater share of market revenues.

4. The Commission invites comment on the effect of local ownership limits on competition and diversity in the radio industry. It notes with respect to competition that television and other media provide some level of competition to radio in the local advertising market (NOI ¶21). The Commission also invites comment on whether the way in which it counts stations and defines markets in the application of the limits should be changed (NOI ¶23). The NOI also addresses the continuing desirability of the daily

newspaper/broadcast cross-ownership rule (NOI ¶128). The Commission is reviewing in separate proceedings the television duopoly rule, the "one-to-a-market" rule, and the daily newspaper/radio cross-ownership rule.

5. Consolidation is all but complete in the major metros and has reached well into the ranks of medium-sized markets. The generous limits imposed by Congress have combined with the generous market definition carried over from the previous version of the Commission's rules to permit consolidation far beyond what most observers had anticipated. Greater Media and Press have two suggestions:

- Any further liberalization of the multiple ownership and cross-ownership rules should include a cross-media ownership cap; and
- The formula for defining markets for the local radio cap should be changed to more accurately reflect a common-sense idea of what constitutes a radio market.

6. Greater Media and Press do not object to the concept of companies having more diverse holdings in a market, including radio, TV, newspapers, cable, and other media. But there must be a limit on the total number of outlets owned in a market in order to preserve what diversity is left and perhaps leave some room for new entrants. If the Commission ultimately decides to further relax the multiple ownership and cross-ownership rules, it should extend the cap concept to the totality of a licensee's media holdings in a particular market. The Commission should propose a cap formula that reflects the relative reach and impact of the various media.

7. If a company owns a TV station in a market, it should not be permitted also to own the normal full complement of radio stations. How many is too many? Greater Media and Press suggest a set of rules that would work something like this: a TV station should

count as three FM stations and one AM station. That means that a major market TV owner would be allowed to own no more than four radio stations, two in each service. An owner of two television stations in a market (if that is to be permitted) would not be allowed to own radio stations. Similarly, a general circulation daily newspaper should count as the equivalent of a television station or three FM stations and one AM station. The Commission should grand-father current interests which exceed these limits as of the date of any rule making, but that grand-fathering should end upon sale or merger of the facilities. While such rules would be somewhat arbitrary (like all ownership caps), they would offer a bright-line method to prevent the relaxation of regulations for specific services from resulting in unreasonable market concentration. A number of broadcasters have contended recently that radio is not a stand-alone medium for purposes of antitrust analysis, but rather just one part of the overall media mix. If that contention is valid, it supports the cross-media application of market caps proposed in these comments. Cross-media market caps would provide a reasonable complement to the method used by the Department of Justice in evaluating radio mergers in the context of a "radio-only" advertising market.

8. The market definition formula for radio has been a disaster. Too many stations, many with minimal service to a market, are counted as being "in the market". For example, one big AM contour can link together distant stations and result in the inclusion in the computation of stations with at most a tangential link to a market. Markets which people in the industry would consider medium are routinely defined as large, and in some situations rural markets are defined as medium markets. The solution is simple -- for Arbitron rated markets, the formula should be changed so that only radio stations

considered by Arbitron to be in the market and which have city-grade coverage of a subject station's community of license qualify for the count. The Commission can and should develop equivalent standards for non-Arbitron rated markets. This change would also have the salutary effect of assuring that a station's apparent importance to the calculation of diversity would bear some discernible relationship to that station's actual impact on diversity. Under the Commission's current standards, a 250-watt, daytime-only station with a signal barely more than tangential to that of a high-power station "in the market" is treated the same for diversity purposes as a second high-power station also "in the market". This ignores reality. Stations which actually provide local service to a market are those that contribute to diversity. It is fallacious to suggest (as the Commission's current standards do) that a distant low-powered station should somehow be deemed relevant to local diversity. The definition of market should be adjusted to accord with real life, and grand-fathering should end with the sale or merger of a grand-fathered station.

9. While there are anti-trust rules available to stop those broadcast ownership combinations which are most likely to adversely affect competition, those rules were never intended to foster diversity in First Amendment expression. Moreover, private party enforcement of those rules is so expensive as to be useless.

10. Radio consolidation is inexorably reducing diverse expression of views in broadcasting. Consolidation has already suppressed radio formats which lack mass audience appeal. Ironically, while Congressional leaders, other elected officials, and media commentators condemn the lack of quality and the increasing tawdriness of so much of what is available on radio and television, consolidation has exacerbated that trend. Consolidation has resulted in hugely increased costs of acquiring and operating radio

stations, fostering a relentless search by station owners for programing which will appeal to the largest possible audience. Sadly, that often means appealing to the lowest common denominator. Any further changes to the broadcast ownership rules should be carefully designed to address this problem, to preserve what diversity is left, and to restore to the extent possible some of the diversity which has been lost.

Respectfully submitted,

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